

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

A-R CABLE SERVICES, INC., ET ALS

v.

MASSACHUSETTS ELECTRIC CO.

D.T.E. 98-52

**MOTION OF A-R CABLE SERVICES, INC., ET ALS FOR
PROTECTIVE ORDER PURSUANT TO G.L.C.25,§5D**

A-R Cable Services, Inc., et als (“Complainants”) hereby move that the Department issue a protective order pursuant to G.L.c.25, §5D with respect to the revenue data provided by the Complainants in response to information requests MECo-6 and DTE-CABLE 1-4. Complainants request that this information be protected from public disclosure and that such disclosure be limited to the Hearing Officer, Department Staff assigned to this proceeding, counsel for Massachusetts Electric Company (“MECo”) and outside consultants retained by MECo in this proceeding.

As grounds for their motion, Complainants first state that the revenue information requested is expressly exempt from public disclosure under G.L.c. 166A, §8. Under Section 8, a

statement of revenues and expenses submitted by cable operators to the Cable Television Division of the Department is “for official use only” and it has been the practice of the Cable Television Division for years to protect such information from public disclosure. This express statutory exemption from public disclosure recognizes the commercially sensitive nature of Complainants’ revenues. The statutorily-mandated practice of the Cable Television Division of the Department to protect cable operator revenues from public disclosure would be fatally undermined if the Department required public disclosure of the same character of information in this proceeding. By virtue of the express statutory protection against public disclosure of cable operator revenues, Complainants have met their burden under G.L.c.25, §5D to prove the need for such protection.

Second, apart from the statutory protection against public disclosure of cable operator revenues under G.L.c.166A, §8, this information is confidential, competitively sensitive and otherwise proprietary. The requested information is not publicly disclosed in the ordinary course of business. As the Department is aware, the cable market has become increasingly competitive. Cable licenses are non-exclusive as a matter of law. Cable operators in Massachusetts are facing competition from satellite-based services, not to mention facilities-based overbuilders, including, but not limited to RCN (several municipalities are exploring entry into the cable business). Complainants do not want their Massachusetts revenues disseminated to the public because of the potential of such disclosure to harm their business interests in Massachusetts.

Third, protection of Complainants’ revenues from public disclosure will not impede this investigation or prejudice any party. Complainants have provided this information to the Hearing Officer. They have further agreed that under an appropriate protective order, limited disclosure may be made to MECo counsel and MECo’s outside consultants.

For these reasons, Complainants request that the Department grant their motion for a protective order.

Respectfully submitted,

A-R CABLE SERVICES, INC. ET ALS

By their attorneys,

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